



**Cynulliad Cenedlaethol Cymru
The National Assembly for Wales**

ADRODDIAD GAN Y PWYLLGOR DEDDFAU

LEGISLATION COMMITTEE REPORT

**The Registration of Social Care and Independent Health Care (Wales) Regulations
2002**

These make provision in relation to registration for the purposes of carrying on or managing care homes, children's homes, independent hospitals and clinics, or acting as a child minder or provider of day care.

Standing Order 11.5

The following points are drawn to the attention of the Assembly. Comment has been submitted on behalf of the Minister in respect of these points pointing out, in particular, that those responsible for drafting the regulations found themselves under severe time constraints.

Regulation 2(1) – “relative”

In the final line of this definition “husband and wife” should be “husband or wife”. It should be possible to correct this in the published version.

Regulation 9(a)

This requires details of the “appropriate office of the National Assembly” to be included in the certificate. In the definition of that term, however, it is acknowledged that there may not be a specifically identified office, and the term is then to refer to any office of the Assembly.

In view of the above it was not clear how paragraph (a) of regulation 9 was to be complied with where there was no specified office.

In the response submitted on behalf of the Minister the validity of this point is acknowledged. It is, however, submitted that in practice this will not be of consequence because there are plans to specify offices for all parts of Wales.

Regulation 9(f)

This requires a certificate of registration to contain details of any condition to which the registration is subject, and lists specific aspects of condition requirements which are to be included.

The implication of this might be thought to be that the definitive text of the condition will be set out somewhere else and that details of the condition, including the matters specifically referred to, have then to be copied into the certificate of registration. In reality, however, it seems that the only definitive text of the definition will be in the certificate of registration.

In these circumstances the Committee's concern was that if the purpose of listing specific items in paragraphs (i) – (v) was to set out the type of matter which may be specified in conditions, the enabling powers do not appear to authorise this.

The observations submitted on behalf of the Minister confirm that the purpose of this provision was not to set out matters that may be included in conditions. The point in issue is thus the drafting point that paragraphs (i) – (v) may not be of practical significance since the full text of the condition would necessarily be set out in the certificate of registration.

Regulation 18(f)(g)

These paragraphs are printed within square brackets which have been unintentionally retained from a draft version. These brackets should be deleted from the published version.

Schedule 2, paragraph 10(2)(a) and (c)

The references to “section 113(313)” are clearly not correct. Again this should be corrected in the published version.

General Observations

It is pointed out that the date of making should have been completed in the copy of the regulations submitted to the Committee.

With regard to the following observations it is thought that all of these, with the exception of the point relating to regulation 13, could, if desired, be corrected in the published version.

Preamble and words of enactment

This appears before the “Arrangement of Regulations”. Normal practice, as explained in paragraph 2.22 of Statutory Instrument Practice, is for the preamble to appear after the table of arrangement since the table of arrangement is not part of the instrument as such.

Footnotes

Footnotes remain to be completed on pages 5 and 6.

Footnote (a) in the preamble is a little misleading. It states that “appropriate Minister” is defined in section 121(1) in relation to England, Scotland and Northern Ireland, but the statement that it includes the National Assembly for Wales does not indicate that this also is in section 121(1). Also, the attention of the user really needs to be drawn to section 5 to confirm that the reference in section 121(1)(b) to “the Assembly” is to the National Assembly for Wales.

Regulation 12(2)(d)

It has been confirmed that the reference to “any regulation made under section 15(3)” reflects an intention to specify the fee in separate regulations.

Since the present regulations are themselves made under section 15(3), however, a footnote would be helpful to direct the user to the regulations in which the fee is to be found.

Regulation 13

On the basis that this requirement has been imposed as a provision which is “supplementary, incidental or consequential” upon the provision under which the Assembly can cancel a registration on grounds of lack of financial viability, it would have been more appropriately located in Part V.

Schedule 1 Part I

Gender specific language is used in paragraph 1(f)(ii).

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